

Rights Removal Bill*: Key Concerns



Limiting access to justice by creating a new permission stage for court cases

*We think this is a more suitable name for the Government's new "bill of rights" Bill.

Legal accountability is a key part of our Human Rights Act. It means that the Government and the public bodies making decisions about our lives, such as social workers, doctors, teachers, and police officers, must uphold our human rights as a matter of law, not simply as good practice. When ordinary people believe their rights have been risked, they can ask a court to review the situation. Where all the usual tests for bringing a legal case are met, the courts will then look at the situation, and decide if human rights have or have not been breached. This is a key form of accountability and fairness that makes us all stronger in a healthy democracy.

The Rights Removal Bill will introduce a new permission stage requiring people making a human rights claim to show they have suffered a "significant disadvantage" before their claim can be heard by a court.

THE PUBLIC SAYS...

In the public consultation, 90% said there should not be a significant disadvantage criteria in a new bill of rights.

THE GOVERNMENT SAYS...

“ A permission stage in court will be introduced requiring people to show they have suffered a significant disadvantage before their claim can go ahead. ”

BIHR SAYS...

Introducing additional criteria for bringing a human rights claim will make it harder for ordinary people to access justice and hold the state to account.

The Human Rights Act already requires anyone who wants to bring a legal case against the Government or a public body to show they meet the specific legal criteria of being a "victim" of a human rights breach (Section 7 HRA). This means they must show that they have been directly affected by an actual or threatened breach of their human rights. If a case is not actually human rights related or it does not have "legal merits", then the courts will not let it progress to a full case.

The Government is deliberately misrepresenting the current law and seeking to make it harder for ordinary people to access justice and hold them to account.

98%

of people think that adding extra criteria will make it harder for ordinary people to access justice and hold the Government and public bodies to account

Data from BIHR's Human Rights Act Reform Survey

[Click here to visit our Rights Removal Bill Hub for more information.](#)

The British Institute of Human Rights

bihr.org.uk



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At BIHR, we know from our work that public bodies want to respect our human rights in their work because they care about the people they support. The fact this is a legal duty, which can result in legal action, strengthens their position to uphold rights, especially in the face of lots of complex and conflicting priorities. However, this new permission stage effectively undermines the legal requirement to uphold human rights by significantly reducing the likelihood that there would ever be any legal accountability and therefore the need to comply with the law.

Human rights are universal – they are for everyone. It should not matter what the impact is on a particular individual of a breach of their human rights or if there is a 'wholly exceptional public interest' – it is important simply because it is that individual's human right.

Adding a further permission stage is also likely to mean more cases ending up in the European Court of Human Rights (ECtHR). This is because one of the rights in the ECHR (which the Government have committed to remaining within) is the right to an effective remedy (Article 13). This means that when a person's rights have been breached, they should be able to take action to hold the Government or public body to account. The new permissions stage in the Rights Removal Bill will make it harder to hold the state to account in the UK and is therefore likely to lead to more cases going to the ECtHR as people try to access justice. This means that less cases will be decided by UK courts, and will instead end up being decided by the ECtHR. This is completely against the Government's stated aim with this Bill.

Taking a case to the ECtHR is very expensive and takes a very long time. For most people it is practically and financially impossible.

Why should people potentially suffering human rights abuses have life made more difficult for them in terms of taking cases against any body, including the state, than other people? This itself begins to sound like a human rights abuse

A response from BIHR's Human Rights Act Reform Survey

If Parliament allows additional criteria to bring legal cases on human rights, this will do nothing to improve rights protections for people, and everything to increase the power of the Government and reduce their accountability for how they treat people interacting with public services.

BIHR's practical work shows people and staff in public bodies rely on human rights having legal accountability to help make positive changes in practice and avoid the need for taking court cases. In reality, the practical effect of this permission stage will prevent people getting near any court or having their arguments listened to. It will leave people who rely on public services in a hugely uncertain position, with little chance to hold the Government to account when needed.